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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,142	11/21/2006	Hiromi Takarada	TOR-06-1354	8937
35811 7590 02/04/2011 IP GROUP OF DLA PIPER LLP (US) ONE LIBERTY PLACE 1650 MARKET ST, SUITE 4900 PHILADELPHIA, PA 19103				
EXAMINER				
SALVATORE, LYNDIA				
ART UNIT		PAPER NUMBER		
1786				
NOTIFICATION DATE		DELIVERY MODE		
02/04/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pto.phil@dlapiper.com

Office Action Summary

Application No.

10/594,142

Applicant(s)

TAKARADA ET AL.

Examiner

LYNDA M. SALVATORE

Art Unit

1786

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/17/10, with respect to the rejection(s) of claim(s) 1 and 2 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Chen et al., US 5,685,832 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Chen et al., US 6,500,539.

Allowable Subject Matter

2. The indicated allowability of claim 3, 6 and 7 is withdrawn in view of the newly discovered reference(s) to Chen, US 6,500,539. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-3 and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al., US 6,500,539 in view of Aranishi et al., US 6,984,631.

The patent issued to Chen et al., teaches woven fabrics comprising cellulose acetate fibers (abstract and column 3, 40-50). Said fibers are extruded to have denier ranging from 1-50 denier (column 4, 20-35). Chen et al., does not specifically teach continuous fibers, but since said fibers are extruded from spinnerets it is reasonable to expect that the resulting fibers are continuous. Chen et al., does not teach cutting the

fibers to form shorter fibers such as staple fibers. Applicant is invited to prove otherwise. With regard to the limitation pertaining to the plasticizer, Chen et al., does not teach adding plasticizer or solvent. As such, it is the position of the Examiner that the cellulose acetate of Chen et al., is plasticizer/solvent free.

Chen et al., does not specifically the claimed cellulose acetate propionate, however, Aranishi et al., teach a melt-spun fiber comprising cellulose acetate propionate (column 10, 26-40). Aranishi et al., teach a degree of substitution of .5 to 2.9 per glucose unit (column 10, 41-45). Said fibers also have a strength ranging from .7 to 3.8 cN/dtex (column 9, 1-10). Said fibers have a size ranging from .5-100dtex (column 9, 20-30). Aranishi et al., teach that the fibers exhibit excellent mechanical properties and uniformity and are well suited for clothing (column 15, 30-40, column 16, 54-60). Aranishi et al., teach forming a knit fabric from the melt-spun filaments (column 17, 60-65 and column 19, 1-10). Though, Aranishi et al., teach adding plasticizer to the thermoplastic cellulose mixed ester, the Examiner submits that Aranishi et al., is relied upon solely to exemplify that the claimed cellulose acetate propionate is known in the art.

Therefore, motivated by the desire to form a fabric having excellent mechanical properties it would have been obvious to one having ordinary skill in the art to substitute the cellulose acetate of Chen et al., with the cellulose acetate propionate of Aranishi et al.

The combination of Chen et al., in view Aranishi et al., does not explicitly teach the diameter of the filament, however, it is the position of the Examiner that it would be

obvious to one having ordinary skill in the art to form the filament with an optimal diameter as function of desired end use (e.g., for clothing). It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

The combination of Chen et al., in view Aranishi et al., does not teach the claimed molecular weight of the acyl units, initial tensile modulus, glass transition temperature or CV properties, however, it is reasonable to presume that said properties are inherent to the knitted or woven fabric taught by Chen et al., in view of Aranishi et al., Support for said presumption is found in the use of like materials such as a cellulose ester fiber and the use of like processes such as forming a knitted or woven fabric from melt-spun continuous filaments, which would result in the claimed glass transition temperature and CV properties. Applicant is invited to prove otherwise.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LYNDIA M. SALVATORE whose telephone number is (571)272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 30, 2011
Art Unit 1786

/Lynda Salvatore/
Primary Examiner